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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,725	08/04/2003	Lucky W. Besecker	BRB-10002/02	5605
25006	7590	03/30/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			BASINGER, SHERMAN D	
			ART UNIT	PAPER NUMBER

3617

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/633,725

Applicant(s)

BESECKER ET AL.

Examiner

Sherman D. Basinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 and 7-10 is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giesler, newly cited in view of new claims 11-17, and Schmidt, Jr. of record.

Giesler discloses a swim lift platform 10 for attachment to a transom of a boat comprising a movable member 30 having a pair of spaced apart generally vertically extended side structures 40 and 42, but does not disclose a generally horizontal platform supported at the lower ends of these side structures.

Note the platform 52 of Schmidt, Jr. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a generally horizontal platform similar to 52 of Schmidt, Jr. to the movable member 30 of Giesler. Motivation to do so is to provide the cradle of Giesler with a platform extending between arms 106 and 108. This platform will allow someone mounting or dismounting the personal watercraft with an area to stand.

Giesler also discloses a mounting structure 36, 38 adapted to be fixed to the transom of a boat;

Art Unit: 3617

a first pair of parallel spaced guides 76 and 78 on said mounting structure;  
a second pair of parallel spaced guides 96 and 98 on said movable member and being complementary  
to and engagable with said first guides to support said movable member for vertical sliding movement between a storage position in which said platform is above water level when said boat  
is floating in water and a lower position in which said platform is submerged, and  
a hydraulic actuator 80 or 82 having a cylinder portion and rod portion extendable therefrom, one of  
said portions being connected to said mounting structure and the other of said portions being connected to said movable member for moving said movable member between said storage and lower positions.

The forward wall of the moveable member or platform assembly is 218 of Giesler (see figure 9) and the hydraulic actuators 80 and 82 are supported forward of this wall.

In Giesler the central mounting portion of claim 14 is 62 of figure 5 and the pair of handles directly interconnected with the platform assembly for generally vertically linear movement therewith can be 110 and 112.

In Giesler the linear hydraulic actuators 80 and 82 of Giesler are disposed between the first pair of guides 76 and 78 and between the second pair of guides 96 and 98.

***Allowable Subject Matter***

3. Claims 3-5 and 7-10 are allowed.

***Response to Arguments***

4. A decision on the Rule 1.131 affidavit filed February 28, 2005 has not been rendered as Schmid, Jr. was not used to reject claim 14 as discussed in the interview of February 17, 2005. In view of applicant filing new claims 11-17, a further search was required and new grounds of rejection are necessitated.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET)/5:30-2:00(after 4/11/05).

Art Unit: 3617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  
3/23/05

Wednesday, March 23, 2005